

June 9, 2005

VIA HAND DELIVERY

Charles Terreni
Chief Clerk and Administrator
South Carolina Public Service Commission
Synergy Office Park
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

2005-180-E

2005 JUN -7 PM 12:16
RECEIVED

Re: South Carolina Electric & Gas Co. v. Aiken Electric Cooperative, Inc.
SGSL No.: 5793/1501

Dear Mr. Terreni:

I am filing with the Public Service Commission an original and ten copies of the Notice and Complaint in the above-referenced matter. Please return one copy, clocked in, to me via our courier. I am also filing an original and ten copies of a Motion to Consolidate Docket No. 2003-254-E with this Complaint and likewise request that one copy of the Motion, clocked in, be returned to me via our courier. On August 27, 2003 South Carolina Electric & Gas Co. filed a Complaint with the Commission involving the same parties and the same issue as the Complaint I am filing today. The Commission assigned Docket No. 2003-254-E to the 2003 Complaint, but in almost two years has failed to take any action on that Complaint. Because of the continuing nature of Aiken Co-op's violation of the Commission's regulations in both of these matters, SCE&G requests that the Commission set both Complaints for hearing as soon as possible.

Robert E. Tyson, Jr.
rtyson@sowell.com
DD 803.231.7838

By copy of this letter I am serving all parties with the Motion to Consolidate.

Thank you for your assistance in this matter.

Sincerely,

Robert E. Tyson, Jr.

1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211

803.929.1400
803.929.0300
www.sowell.com

RETjr:alw
Enclosure

cc: C. Dukes Scott, Executive Director
South Carolina Office of Regulatory Staff (w/enclos)
Val H. Stieglitz, Esquire
James B. Richardson, Jr. Esquire
Patricia B. Morrison, Esquire

BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-____-E

IN RE:

South Carolina Electric & Gas Co.,)
)
Complainant,)
-vs-)
)
Aiken Electric Cooperative, Inc.,)
)
Defendant.)
_____)

NOTICE

TO: AIKEN ELECTRIC COOPERATIVE, INC.

PLEASE TAKE NOTICE that you are hereby required, pursuant to S.C. Code Regs. R. 103-835 and R. 103-841 of the Commission's Rules of Practice and Procedure, to answer the allegations contained in the Complaint filed herein, a copy of which is herewith served upon you, and further, to serve a copy of your Answer to the Complaint upon Thornwell F. Sowell and Robert E. Tyson, Sowell Gray Stepp & Lafitte, LLC, Post Office Box 11449, Columbia, South Carolina 29211, and the Office of Regulatory Staff and to file your Answer with certification of service with the undersigned within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Complainant may apply to the Commission for the relief demanded in the Complaint.

June ____, 2005
Columbia, South Carolina

Charles Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
Post Office Box 11649
Columbia, South Carolina 29211

BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-____-E

IN RE:

South Carolina Electric & Gas Co.,

Complainant,

-vs-

Aiken Electric Cooperative, Inc.,

Defendant.

COMPLAINT

FILED
2005 JUN -9 PM 12:16
SOUTH CAROLINA
PUBLIC SERVICE COMMISSION

I. JURISDICTION and PARTIES

1. This complaint is filed by South Carolina Electric & Gas Company, Inc. ("SCE&G"), an electrical utility operating under the Commission's jurisdiction, with its principal office at 1426 Main Street, Columbia, South Carolina 29201, telephone number (803) 217-9000. The defendant is Aiken Electric Cooperative, Inc. ("Aiken Co-op"), an electric supplier subject to the Commission's jurisdiction in matters related to the administration of the Territorial Assignment Act, S.C. Code Ann. §§ 58-27-610, *et seq.* Aiken Co-op's principal office is 2790 Wagener Road, Post Office Box 417, Aiken, South Carolina 29802, telephone number (803) 649-6245.

2. SCE&G requests a formal proceeding to investigate Aiken Co-op's construction of an electric distribution line in violation of Commission Regulation R. 103-304(1), to order Aiken Co-op to remove the line, and to order Aiken Co-op to reimburse SCE&G its costs and lost profits.

3. The Commission has jurisdiction of the parties and the subject matter pursuant to S.C. Code Ann. §§ 58-27-610, *et seq.* and R. 103-304(1) of the Commission's Regulations.

II. FACTS

4. This matter arises under Commission Regulation R. 103-304(1).

5. Pursuant to the Territorial Assignment Act, S.C. Code Ann. §§ 58-27-610, *et seq.*, the Commission assigned to SCE&G the area surrounding and east of the Town of Monetta as shown on Exhibit A, which Exhibit is attached to this Complaint and made a part hereof.

6. Aiken Co-op acknowledged and agreed to the Commission's assignment of territory in Aiken and Saluda counties to Aiken Co-op and to SCE&G by executing the Commission's county maps showing such territorial assignment. Aiken Co-op also agreed to the depiction of the location of its distribution lines in SCE&G's assigned territory as those lines existed at the time of assignment by executing the Commission's county maps.

7. At the date of territorial assignment, Aiken Co-op owned one single-phase electric distribution line within SCE&G's assigned territory in the area that is pertinent to this complaint. This single-phase line is recorded on the Commission's official county map depicting this area, Map No. 02-254. Exhibit B shows the distribution lines of SCE&G and Aiken Co-op as they existed at the time of territorial assignment. SCE&G's lines are shown in blue and Aiken Co-op's single-phase distribution line is shown as a dashed yellow line on Exhibit B which is attached to this Complaint and made a part hereof.

8. Without Commission permission and in willful violation of Commission Regulation R. 103-304(1), Aiken Co-op recently constructed a new three-phase distribution line through SCE&G's assigned territory. Aiken Co-op's newly constructed three-phase line is shown as a solid red line on Exhibit C. The new line extends 1838 feet through SCE&G's assigned territory and partially duplicates Aiken Co-op's previously existing single-phase line. Also shown on Exhibit C, in blue, are SCE&G's lines in this area. The single-phase distribution line owned by Aiken Co-op at the time of territorial assignment is shown as a dashed yellow line.

9. Aiken Co-op neither sought nor received the Commission's approval for the construction of the new three-phase line. Aiken Co-op's construction of a distribution line through SCE&G's assigned territory without Commission approval is a willful violation of Commission Regulation R. 103-304(1) and is part of a continuing pattern of willful violations of that regulation. Regulation R. 103-304(1) reads as follows with the material part of the Regulation quoted in bold print:

1. Rural Territorial Act. The Commission has assigned all areas outside municipal limits, and more than 300feet from the lines (as defined in § 58-27-610(3) of the South Carolina Code of Laws), as such lines existed on the dates of assignments, of any electric supplier (except some territory which was left unassigned to any supplier), and **no electric supplier shall construct lines and equipment except as provided by S.C. Code of Laws, §§ 58-27-620(2); 58-27-620(4); 58-27-620(6); 58-27-650; and 58-27-660(1), into territory assigned to another supplier without prior approval of the Commission;** and no electric supplier shall construct permanent lines and equipment into any territory left unassigned by the Commission pursuant to S.C. Code Ann. § 58-27-640 without prior notice to the Commission filed within a reasonable period of time prior to the date of actual construction of permanent lines, which notice shall include a map of the area showing existing facilities, location of the customer, and the proposed route of the permanent line, and a written certification that those electric suppliers furnishing electric service in any areas

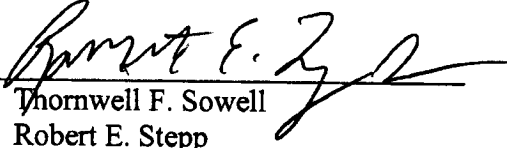
contiguous to the unassigned territory have been provided a copy of the notice of construction of facilities as filed with the Commission, and all such facilities providing electric service shall be constructed in accordance with good utility practices and all other applicable provisions of the S.C. Code of Laws, as amended.

III. RELIEF

10. SCE&G requests that the Commission institute a formal proceeding to investigate Aiken Co-op's violation of Commission Regulation R. 103-304(1); that the Commission order Aiken Co-op to remove its newly constructed three-phase line from SCE&G's territory; and that the Commission order Aiken Co-op to pay SCE&G its costs and lost profits resulting from Aiken Co-op's violation of the Commission's Regulations.

SOWELL GRAY STEPP & LAFFITTE, L.L.C.

By: _____


Thornwell F. Sowell
Robert E. Stepp
Robert E. Tyson, Jr.
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

-and-

Patricia Banks Morrison
SCANA Services, Inc.
Legal Dept., Mail Code 130
1426 Main Street
Columbia, SC 29218
(803) 217-7880

Attorneys for Complainant South Carolina
Electric & Gas Co.

Columbia, South Carolina

June 7, 2005

EXHIBIT A



SCE&G

LEWEL RD

HOLSTON ST

WYOMING ST

WYOMING ST

Monetta

Aiken Electric Cooperative

FARM VIEW RD

BORNAGAIN RD

Legend

- Centerlines - Road Names
- Aiken Electric Cooperative
- SCE&G
- Monetta



EXHIBIT B



SCE&G

BETHEL RD

CHINQUAPING RD

WATSON POND RD

HOUSTON ST

ANTHONY RD

ANTHONY RD

Monetta

Aiken Electric Cooperative

FARM VIEW RD

BORNHAGAN RD

Legend

- - SCE&G Single Phase
- - SCE&G Three Phase
- - Aiken Co-op Single Phase
- - Centerlines - Road Names
- Aiken Electric Cooperative
- SCE&G
- Monetta



EXHIBIT C



SCE&G

Aiken Electric Cooperative

Monetta

Legend

- - - Aiken Co-Op Single Phase
- Aiken Co-Op New Three Phase
- Aiken Co-Op Unknown Phase
- - - SCE&G Single Phase
- - - SCE&G Two Phase
- SCE&G Three Phase
- Centerlines - Road Names
- Aiken Electric Cooperative
- SCE&G
- Monetta



WATSON ROAD RD

CHINQUAPIN CH RD

FARM VIEW RD

BORN AGAIN RD

BETHEL RD

HOUSTON ST

WATKINS AVE

WATKINS

BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-____-E

IN RE:

South Carolina Electric & Gas Co.,)	
)	
Complainant,)	
-vs-)	<u>COMPLAINT</u>
)	
Aiken Electric Cooperative, Inc.,)	
)	
Defendant.)	
<hr style="width:100%; border: 0.5px solid black;"/>		

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4. This matter arises under Commission Regulation R. 103-304(1).

5. Pursuant to the Territorial Assignment Act, S.C. Code Ann. §§ 58-27-610, *et seq.*, the Commission assigned to SCE&G the area surrounding and east of the Town of Monetta as shown on Exhibit A, which Exhibit is attached to this Complaint and made a part hereof.

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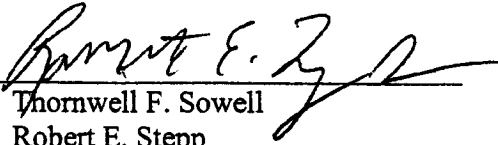
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contiguous to the unassigned territory have been provided a copy of the notice of construction of facilities as filed with the Commission, and all such facilities providing electric service shall be constructed in accordance with good utility practices and all other applicable provisions of the S.C. Code of Laws, as amended.

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SOWELL GRAY STEPP & LAFFITTE, L.L.C.

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Attorneys for Complainant South Carolina
Electric & Gas Co.

Columbia, South Carolina
June 9, 2005

EXHIBIT A



SCE&G

BETHEL RD

HOUSTON ST

WHEELER RD

WILKINSON AVE

Monetta

Aiken Electric Cooperative

FARM VIEW RD

BORNHAGEN RD

Legend

- Centerlines - Road Names
- Aiken Electric Cooperative
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- Monetta



EXHIBIT B



SCE&G

HOLSTON ST

WYOMING AVE

WILKINS LAKE

Monetta

BETHEL RD

WYOMING AVE

WATSON POND RD

CHINQUAPIN CH RD

FARM VIEW RD

BORNAGAIN RD

Aiken Electric Cooperative

Legend

- - - SCE&G Single Phase
- - - SCE&G Three Phase
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- Aiken Electric Cooperative
- SCE&G
- Monetta



EXHIBIT C



SCE&G

BETHEL RD

CHINQUAPIN CH RD

HOLSTON ST

WYATT RD

WYATT RD

Monetta

Aiken Electric Cooperative

FARM VIEW RD

BORN AGAIN RD

Legend

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- Centerlines - Road Names
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BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2005-____-E

IN RE:

South Carolina Electric & Gas Co.,)	
)	
Complainant,)	NOTICE
-vs-)	
)	
Aiken Electric Cooperative, Inc.,)	
)	
Defendant.)	
_____)	

TO: AIKEN ELECTRIC COOPERATIVE, INC.

PLEASE TAKE NOTICE that you are hereby required, pursuant to S.C. Code Regs. R. 103-835 and R. 103-841 of the Commission's Rules of Practice and Procedure, to answer the allegations contained in the Complaint filed herein, a copy of which is herewith served upon you, and further, to serve a copy of your Answer to the Complaint upon Thornwell F. Sowell and Robert E. Tyson, Sowell Gray Stepp & Lafitte, LLC, Post Office Box 11449, Columbia, South Carolina 29211, and the Office of Regulatory Staff and to file your Answer with certification of service with the undersigned within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Complainant may apply to the Commission for the relief demanded in the Complaint.

June ____, 2005
Columbia, South Carolina

Charles Terreni
Chief Clerk and Administrator
Public Service Commission of South Carolina
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Columbia, South Carolina 29211